



THE ATTORNEY GENERAL OF TEXAS

AUSTIN 11, TEXAS

PRICE DANIEL
ATTORNEY GENERAL

July 24, 1951

Hon. Nettee C. Romer
County Auditor
Midland County
Midland, Texas

Opinion No. V-1216

Re: Present maximum salary
of the County Treasurer
of Midland County.

Dear Madam:

Your request for an opinion relates to the following factual situation:

Midland County had a population of less than 20,000 inhabitants according to the 1940 Federal census, and pursuant to House Bill 785, Acts 50th Leg., 1947, ch. 381, p. 772 (Art. 3912e-12, V.C.S.), the county treasurer was compensated on the basis of \$5400.00 per year. Midland County now has more than 20,000 inhabitants (25,785) according to the 1950 Federal census. The assessed valuation of such county is \$16,200,440.00 according to the last approved tax rolls.

You desire to know if the Commissioners' Court of Midland County is authorized to pay the county treasurer the sum of \$6750.00 per year.

Inasmuch as Midland County has a population in excess of 20,000 inhabitants, its county treasurer must be compensated on a salary basis. Tex. Const. Art. XVI, Sec. 61. Section 13 of Article 3912e, V.C.S., is controlling as to the compensation to be paid the treasurer and provides in part as follows:

"The Commissioners' Court in counties having a population of twenty thousand (20,000) inhabitants or more, and less than one hundred and ninety thousand (190,000) inhabitants according to the last preceding Federal Census, is hereby authorized and it shall be its duty to fix the salaries of all the following named officers, to-wit: . . . treasurer, . . . Each of said officers shall be paid in money an annual salary in twelve (12) equal installments of not less than the total sum earned as compensation by him in his official capacity for the fiscal year 1935, and not

more than the maximum amount allowed such officer under laws existing on August 24, 1935; provided that in counties having a population of twenty thousand (20,000) and less than thirty-seven thousand five hundred (37,500) according to the last preceding Federal Census, and having an assessed valuation in excess of Fifteen Million (\$15,000,000.00) Dollars, according to the last approved preceding tax roll of such county the maximum amount allowed such officers as salaries may be increased one (1%) per cent for each One Million (\$1,000,000.00) Dollars valuation or fractional part thereof, in excess of said Fifteen Million (\$15,000,000.00) Dollars valuation over and above the maximum amount allowed such officers under laws existing on August 24, 1935; . . .

" . . .

"(e) The Commissioners Court is hereby authorized, when in their judgment the financial condition of the county and the needs of the officers justify the increase, to enter an order increasing the compensation of the precinct, county and district officers in an additional amount not to exceed twenty-five (25%) per cent of the sum allowed under the law for the fiscal year of 1944, provided the total compensation authorized under the law for the fiscal year of 1944 did not exceed the sum of Thirty-six Hundred (\$3600.00) Dollars."

In a letter addressed to Hon. N. E. Grisham, District Attorney, Eastland, Texas, dated November 24, 1947, this office stated:

"It is our opinion that the county treasurer of Eastland County could have received in 1947 a maximum compensation of \$2625.00, determined as follows:

"In 1935 the maximum compensation was \$2,000.00. (Article 3943, V.C.S.) Based on assessed valuation in 1943 (\$19,575,780.00) the Commissioners' Court of Eastland County could have granted the county treasurer an increase in 1944 of \$100.00 (5% of \$2,000.00).

Under the provisions of Subdivision (e) of Section 13, Article 3912e, the Commissioners' Court could have granted in 1947 an additional increase of 25% of the maximum allowed the treasurer under the law in 1944, or \$525.00. (25% of \$2100.00) Since Eastland County had an assessed valuation in 1946 of \$19,079,010.00, the county treasurer could receive an increase based on the assessed valuation of 5% of the maximum allowed on August 24, 1935, or \$100.00. (5% of \$2,000.00) In 1947 the county treasurer of Eastland County could receive a maximum salary of \$2,625.00. (\$2,000 plus \$100 plus \$525)."

By the same token, the maximum compensation allowed under the law for the County Treasurer of Midland County in 1935 was \$2,000.00. (Art. 3943, V.C.S.) Since the assessed valuation of Midland County in 1943 was \$7,-852,018.00, the commissioners' court was not authorized to grant an increase based upon valuation. Art. 3912e, Sec. 15, V.C.S. Therefore, the maximum compensation of the county treasurer was \$2,000.00 in 1944.

Under the provisions of subdivision (e) of Section 13 of Article 3912e, V.C.S., the commissioners' court is authorized to grant an additional increase of twenty-five per cent of the maximum allowed the treasurer under the law in 1944, or \$500.00 (25% of \$2,000.00). Pursuant to the provisions of Article 3912g, V.C.S., the commissioners' court is authorized to grant an increase of twenty-five percent of \$5400.00 (which amount could have been paid in 1948, Art. 3912e-12, V.C.S.), or \$1350.00. Att'y Gen. Op. V-1140 (1951).

In addition to the sums enumerated above, the commissioners' court would be authorized to increase such amounts by two per cent of the amount allowed in 1935, based upon the assessed valuation of \$16,200,440.00, that is, 2% of \$2000.00, or \$40.00 (Art. 3912e). This amount, together with the amount allowed under Section 13 of Article 3912e and Article 3912g, authorizes a maximum compensation of \$3890.00 for the County Treasurer of Midland County. (\$2,000 plus \$500 plus \$1350 plus \$40.)

In this connection, you are referred to the provisions of House Bill 265, Acts 52nd Leg., 1951, relating to the compensation of county treasurers. This act becomes effective September 7, 1951, having failed to receive a record vote in the Senate. Halbert v. San Saba Springs

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Bond and Livestock Ass'n, 89 Tex. 230, 34 S.W. 639 (1896);
Caples v. Cole, 129 Tex. 370, 102 S.W.2d 173 (1937). Sec-
tion 2 of House Bill 265 provides:

"In each county in the State of Tex-
as having a population of at least twenty
thousand (20,000) and not more than fifty
thousand (50,000) inhabitants according
to the last preceding Federal Census, the
Commissioners Court shall fix the salary
of the county treasurer at any reasonable
sum, providing such salary is not less
than Two Thousand, Four Hundred Dollars
(\$2,400) per annum."

The above quoted provision is applicable to
Midland County and, after September 7, 1951, the commis-
sioners' court of the county is authorized to fix the
salary of the county treasurer in accordance therewith.

SUMMARY

The present maximum compensation of
the County Treasurer of Midland County is
\$3890.00 under the provisions of Articles
3912e, Sec. 13 and 3912g, V.C.S.

The maximum compensation that may be
allowed the county treasurer after Septem-
ber 7, 1951, the effective date of House
Bill 265, Acts 52nd Leg., 1951, will be
any reasonable sum fixed by the commis-
sioners' court, provided it shall not be
less than \$2,400.00 per annum.

APPROVED:

J. C. Davis, Jr.
County Affairs Division

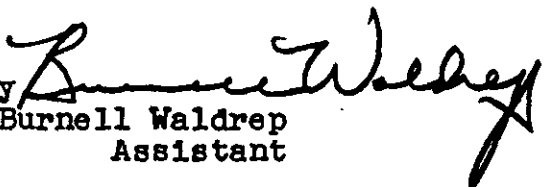
Jesse P. Luton, Jr.
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BW:mw

Yours very truly,

PRICE DANIEL
Attorney General

By 
Burnell Waldrep
Assistant